

MEMORANDUM OF UNDERSTANDING
Between
IDAHO DEPARTMENT OF FISH AND GAME (IDFG),
and
IDAHO OUTFITTERS AND GUIDES LICENSING (IOGLB)

Concerning:
Coordination of Outfitter and Guide Administration
Within the state of Idaho

WHEREAS, under the authority vested through Idaho Code (Title 36, Chapter 21, Idaho Code) IDFG and IOGLB agree the natural resources of the state of Idaho are an invaluable asset to every community in which they abound. Every year, in rapidly increasing numbers, the inhabitants of the state of Idaho and nonresidents are enjoying the benefits of Idaho's recreational opportunities. The tourist trade is of vital importance to the state of Idaho, and the recreational value of Idaho's natural resources is such that the number of persons who are each year participating in their enjoyment is steadily increasing. The intent of this legislation is to promote and encourage residents and nonresidents alike to participate in the enjoyment and use of the deserts, mountains, rivers, streams, lakes, reservoirs and other natural resources of Idaho, and the fish and game therein, and to that end to regulate and license those persons who undertake for compensation to provide equipment and personal services to such persons, for the explicit purpose of safeguarding the health, safety, welfare and freedom from injury or danger of such persons, in the exercise of the police power of this state. It is not the intent of this legislation to interfere in any way with the business of livestock operations, nor to prevent the owner of pack animals from using same to accommodate friends where no consideration is involved for the use thereof, nor is it the intent of this legislation to interfere in any way with the right of the general public to enjoy the recreational value of Idaho's deserts, mountains, rivers, streams, lakes, reservoirs and other natural resources when the services of commercial outfitters and guides are not utilized, nor to interfere with the right of the United States to manage the public lands under its control, and;

WHEREAS, the IOGLB is the Idaho State Agency responsible for licensing and regulating all commercial outfitter activities on private and public lands or waters with the expressed purpose of safeguarding the health, safety, welfare and freedom from injury or danger of those persons utilizing the services of outfitters and guides, and with the expressed purpose of conserving wildlife and range resources, and;

WHEREAS, the IDFG is the primary Idaho State Agency responsible for administration, management, and enforcement of Idaho's fish and wildlife resources, hunting, fishing and trapping and many associated hunting and fishing experiences for all of Idaho's citizens and others as permitted by law, on private and public lands or waters, and;

WHEREAS, the IDFG and IOGLB recognize that the fish and wildlife resources of Idaho are owned and sustained by the people of Idaho and that commercial outfitting enterprise is a regulated privilege; where outfitters who provide hunting and fishing opportunities using Idaho fish and wildlife resources are licensed by IOGLB for benefit of the public at large; and it is with these principles as the highest priority that this MOU has been prepared, and;

WHEREAS, the IDFG and the IOGLB recognize that most outfitter businesses are largely supported by hunting and fishing opportunities using the fish and wildlife resources of Idaho and that resources change and decisions made by IDFG and IOGLB may greatly affect the livelihood of these members of the public who are supported by these businesses; and,

WHEREAS, the IDFG and the IOGLB recognize that potential conflicts exist between the outfitted and the non-outfitted public, and;

WHEREAS, the IDFG and the IOGLB recognize outfitting as a viable industry deserving full consideration in the planning process and to unify, so far as feasible, agency policy and procedures regarding the Outfitter industry, and;

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WHEREAS, the federal agencies are required by the National Environmental Policy Act (NEPA) to evaluate the need for when and where outfitting services are to be conducted on federal lands or waters and water, and formally requests IDFG comment on impacts to fishing and hunting from outfitting on federal lands or waters and water, and formally coordinates federal permitting decisions related to outfitting on federal lands or waters and water with the IOGLB, and;

WHEREAS, outfitting and guided services are also conducted on state and private lands or waters and water and where IOGLB needs IDFG's assistance to evaluate the need for when and where outfitting services are to be conducted and in doing so, formally requests IDFG comment on impacts to fishing and hunting from outfitting on these resources, and;

WHEREAS, both IDFG and IOGLB recognize the declining recreational access to private lands, and through private lands to public lands, and will cooperate to enhance outfitted and non-outfitted access to, and through, private lands for hunting, fishing, , and;

WHEREAS, the IDFG and IOGLB share in overlapping responsibilities to enforce various statutes found in Idaho Code (Title 36, Chapter 21), have worked cooperatively in the past and due to the need to share resources for increased efficiency and effectiveness of the public services they provide, they have identified a need to clarify roles and responsibilities, and;

THEREFORE, this Memorandum of Understanding (MOU) provides procedures and guidance for coordination and cooperation between the IDFG and the IOGLB on the appropriate management of Idaho's fish and wildlife resources related to the licensing and regulation of Idaho's Outfitter industry.

IN AS SUCH:

IDFG agrees:

- 1) To recognize that the administration, management and enforcement of commercial outfitting requires biological and sociological information and agrees to provide the best biological and sociological data and information available related to fish and wildlife resources and to fish and wildlife recreation, as part of administrative processes initiated by a federal agency or the IOGLB in relation to outfitter applications for licenses or amendments.
- 2) To provide official input upon receipt of either a federal lands or waters management agency "analysis" notice or IOGLB request for input.
- 3) To collaborate and coordinate with IOGLB on matters of resource allocations, such as big game tags.
- 4) To inform and discuss with IOGLB, matters relating to the occupancy and use of public lands or waters by licensed outfitters.
- 5) To inform and discuss with IOGLB matters related to IOGLB policy or programs and prior to the issuance of a public document or policy change.
- 6) To assist IOGLB in promulgating rules and establishing processes relating to the regulation, occupancy, and use of outfitting on private lands or waters.
- 7) To assist IOGLB in enforcement of state and federal laws and regulations pertaining to outfitting and report of any violations by or convictions of outfitters and/or guides.
- 8) IDFG will provide clear reasoning and rationale for differences when disproportionate reductions or increases are recommended between outfitted and non-outfitted public use of fish and wildlife resources by IDFG,
- 9)

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IOGLB agrees:

- 1) To facilitate a collaborative review of a proposed action with IDFG whenever an action is proposed as a new hunting or fishing outfitter license, or whenever a substantive change to any existing hunting or fishing outfitter license is being considered.
- 2) To ensure that IDFG receives the appropriate information including the outfitter's operation plan, area description and maps when soliciting official IDFG input.
- 3) To collaborate with IDFG when Major Activity or other substantive resource decisions are being considered, prior to issuing any decisions made relative to IDFG input, and to provide an explanation when decisions are issued.
- 4) To inform and discuss with IDFG any proposed changes in outfitter rules, regulations, policies, and licensing procedures in Idaho pertaining to IDFG.
- 5) To assist IDFG in enforcement of state and federal law and regulations, and to report fish and game violations by or convictions of outfitters and guides to IDFG.
- 6) By August 1 of each year, the board shall provide to the Director of the Department of Fish and Game, in a manner and form prescribed by the Director, the number of wildlife taken in each management unit.

IDFG and IOGLB mutually agree:

- 1) To provide complete interchange of information in matters of mutual interest.
- 2) To hold a joint meeting each year to discuss MOU changes and other policy matters. The IOGLB Executive Director will coordinate the meeting on even numbered years and the IDFG Director will coordinate the meeting on odd numbered years. The meeting will be held in May each year.
- 3) To work jointly to identify, assess, and resolve conflict according to applicable laws. These efforts will include public processes designed to inform the public and accurately assess public opinion and desires for managing guided hunting and fishing activities relative to the overall public hunting and fishing opportunity and experience. (See exhibits 1, 2, 3, 4).
- 4) To jointly develop and maintain a comprehensive database and GIS system identifying outfitter operating areas associated. (See exhibit 8)
- 5) To cooperate in the enforcement of Idaho law governing outfitters by reporting complaints, violations or unsatisfactory performance; advising each other of any convictions of outfitters or guides for violations of federal law or regulations; and subject to availability, provide facilities, transportation and staff in support of respective enforcement activities. (See exhibit 9)
- 6) To resolve impasses in administering the terms of this MOU, IOGLB or IDFG will use the following procedures:
 - A) In the event the IOGLB or IDFG reach an impasse with the USFS or the BLM regarding outfitting or guiding activities, IDFG and IOGLB will first attempt to come to agreement then IOGLB and IDFG jointly notifies the responsible federal officer in writing. IOGLB'S MOU with these agencies refers the matter to the appropriate Regional Forester or to the BLM State Director.

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- B) In the event the IOGLB and IDFG reach an impasse in non-federal areas of concern, either Director will notify the other Director in writing, the respective Directors may arrange for a joint meeting of IOGLB Board Members and IDFG Commissioners.

Definition of Major and Minor as used by IOGLB:

The IOGLB no longer uses the word "incidental" in describing outfitter activities; however, "incidental" continues to appear in some historic outfitter operating area descriptions. In these instances, the term "incidental" should be considered and used interchangeably with the term "minor" as described below:

- 1) Minor Activity is a licensed activity the nature of which must be carried out in conjunction with a major activity, but is not the primary purpose of the excursion.
- 2) Minor Amendment includes all outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a lands or waters managing agency or other agency before the Board takes final action on said amendment request.
- 3) Major Activity is a licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter.
- 4) Major Amendment includes all outfitter license amendment requests requiring Board research or recommendation of a lands or waters management agency or other agency before the Board takes final action on the amendment request.

Administration

- 1) This Memorandum of Understanding supersedes all previous MOUs pertaining to agreements between IDFG and IOGLB.
- 2) Nothing contained in this document limits or affects in any way the authority of the IDFG or limits or affects the authority of the IOGLB in administering the laws of Idaho, or abiding by federal laws or regulations.
- 3) Specific work projects or activities which involve the transfer of funds, services, or property between the parties to this MOU require the execution of separate agreements or contracts, contingent upon the availability of funds.
- 4) Additions to, deletions from, and amendments to this agreement may be proposed by either party and become effective upon approval by both parties.
- 5) Either party(s), in writing, may terminate the instrument in whole, or in part, within 180 days by providing written formal notice to the other party.
- 6) This instrument is executed as of the date shown on the signature page and will be reviewed by the parties on or before January 15, 2012, to determine whether to renew or revise the MOU.

The principal contacts for this instrument are:

Cal Groen, Director
Idaho Department of Fish and Game
600 S. Walnut
Boise, ID 83707
(208) 334-3781

Jake Howard, Director
Idaho Outfitter and Guides Licensing Board
1365 N. Orchard, Room 172
Boise, ID 83706
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APPROVED:

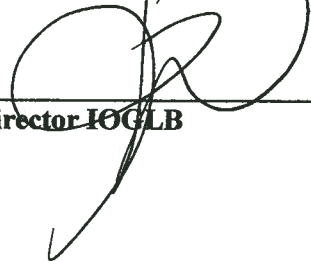
IDAHO DEPARTMENT FISH AND GAME


Chairman of the IDFG Commission 1/17/08
Date


Director IDFG 1/17/08
Date

IDAHO OUTFITTERS AND GUIDES LICENSING IOGLB


Chairman of the IOGLB 1/17/08
Date


Director IOGLB 1/17/08
Date

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EXHIBIT 1 – IOGLB/IDFG Public Involvement Process for Actions on the Regulation of Guided Hunting and Fishing Operations

The IOGLB and IDFG will coordinate and collaborate on public involvement processes to inform the public of proposed actions on the regulation of outfitter operations or to assess public opinion or desires for regulation of guided hunting and fishing operations or their effect on public hunting and fishing opportunity and experiences as cooperatively deemed necessary and appropriate.

EXHIBIT 2 – IDFG Participation in Licensing, Re-licensing and Permitting Outfitters on Federally Managed Lands or Waters.

The IOGLB, USFS and BLM have entered into and maintain a separate Memorandum of Understanding (MOU) to cooperatively permit and license Outfitter commercial recreational activities for the public on federally managed lands or waters. With reference to this MOU, the IDFG participates in the following way:

- 1) IOGLB and IDFG recognize that the “Analysis” processes employed by the federal agencies are required by the National Environmental Protection Act (NEPA) and are used to identify where and when outfitting services are necessary and appropriate to serve the Public Interest on federal lands or waters (“Needs Assessment”). Analysis is also done relative to the MOU the federal agencies hold with the IOGLB. To be legal, an outfitter must hold both a State outfitter license issued by IOGLB and a federally issued outfitter permit. The State licenses specify areas of operation and activities that may be conducted within the area of operation.
- 2) IOGLB recognizes that by Federal law the federal agencies involve IDFG in the “analysis” processes. IOGLB cooperates with IDFG in the analysis process because IDFG is the primary State agency responsible for managing the state fish and wildlife resource and acts in an advisory capacity to IOGLB to these activities which are sought after or potentially affect outfitters.
- 3) With respect to the State and Federal licensing and permitting process, analysis typically occurs when an application for a new outfitter operation is received, an existing outfitter’s applies to amend by adding or changing their existing operating areas or licensed activities, or an existing outfitter’s application seeks to sell their business.
- 4) When an analysis process is to occur and if the process is related to a specific outfitter, the federal agency will provide the IDFG an outfitters proposed operating plan and an operating area map at the time they request IDFG involvement.
- 5) The information IDFG provides to the federal agency will be made available to IOGLB who makes an independent decision whether to issue a license.
- 6) IOGLB should request additional information from IDFG if a substantive change has been made to a specific outfitter’s initial operating plan or operating plan or operating area since the analysis occurred.
- 7) IOGLB will issue a license in cases of routine renewal where no significant biological or non-outfitted public use issues exist, or no compliance problem exists. In these instances, the license will be processed without consultation with IDFG.
- 8) When a request for comments or consultation is received from the IOGLB, the IDFG will provide a response to IOGLB within 30 days. The IOGLB will entertain deadline extensions when requested by IDFG.

EXHIBIT 3 – IOGLB/IDFG Needs Assessment Process for Licensing Outfitters on State Lands or Waters

- 1) IOGLB and IDFG recognize that the “Analysis” processes identify where and when outfitting services are necessary and appropriate to serve the Public Interest on state lands or waters. To be legal, an outfitter must hold both an outfitter permit typically issued by the Idaho Department of Lands (IDL), the Idaho Department of Parks and Recreation (IDPR) or the Idaho Department of Fish and Game or some other state land management agency and an outfitter license issued by IOGLB. The IOGLB licenses specify areas of operation and activities that may be conducted.
- 2) IOGLB and IDFG recognize a need for an “analysis” process to occur before a new or amended license is issued. IOGLB will facilitate the analysis process with the other state agency and IOGLB will cooperate with IDFG in the analysis process involving fish and wildlife because IDFG is the primary State agency responsible for managing the state fish and wildlife resource who acts in an advisory capacity to IOGLB to these activities which are sought after or potentially affect outfitters. IOGLB and IDFG recognize there is not a requirement that other state agencies participate in an “analysis” process. IOGLB agrees make an adequate review before a license is issued.
- 3) With respect to IOGLB licensing and permits issued by another state agency, analysis typically occurs when an application for a new outfitter operation is received, an existing outfitter’s applies to amend by adding or changing their existing operating areas or licensed activities, or an existing outfitter’s application seeks to sell their business. In these instances, the IOGLB will provide the IDFG with an outfitter operating plan and an operating area map at the time they request IDFG consultation.
- 4) IOGLB should request additional information from IDFG if a substantive change has been made to a specific outfitter’s initial operating plan or operating area since the analysis occurred.
- 5) IOGLB will issue a license in cases of routine renewal where no significant biological or non-outfitted public use issues exist, or no compliance problem with state or federal law exists. In these instances, the license will be processed without consultation with IDFG.

EXHIBIT 4 – Outfitting on Privately Held Lands or Waters

Interest in outfitting on private property has increased substantially the past 10 years and is expected to continue. Exclusive use agreements or other arrangements between outfitters and land owners have limited public hunting and angling access to private property in some areas of the state. While recognizing the rights of private land owners and business owners, both IDFG and IOGLB are aware of the potential loss of private lands or waters access, or access through private lands and waters, to the non-outfitted hunting and angling public. To provide for private lands or waters outfitting and minimize the conflict between outfitted and non-outfitted hunters and anglers, the following criteria will be used:

- 1) The proposed outfitting opportunity must not deny public access to public lands or waters accessible only through the private lands or waters that are being proposed for outfitting.
- 2) The proposed language in the outfitting agreement with a lands or waters owner cannot exclude non-outfitted fishing or hunting opportunities. Nevertheless, it is recognized that the land owner still has the right to control access to his property.
- 3) The proposed outfitter operating area on private lands or waters has the capacity to offer adequate hunting, fishing or recreation opportunities. Typically lands or waters not conducive to the proposed activity will not be considered.
- 4) Private lands or waters owners holding IDFG Shooting Preserve or Private Pond Permits, who wish to provide outfitted or guided services, must obtain and maintain appropriate IOGLB license(s).

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- 5) Outfitter licenses will be issued to only the applicant applying for the license. The land owner(s) will have no controlling interests in the license unless they are the applicant(s).
- 6) The proposed activities on the private lands or waters are not in conflict with other outfitters in the area.
- 7) Outfitters holding allocated tags in an IDFG controlled hunt area cannot be disrupted by other outfitters operating on private lands or waters.
- 8) Once licensed, the outfitter must maintain a record of all lands or waters that are going to be outfitted during a given year. Changes must be recorded by submitting revised legal descriptions and maps. IOGLB will review operating areas and will make a determination whether an amendment must be submitted.

This is how IOGLB will process applications on private lands or waters:

- 1) IOGLB and IDFG recognize that an analysis is needed to identify where and when outfitting services are necessary and appropriate to serve the public interest on private lands or waters. To be legal, an outfitter must hold an outfitter license issued by IOGLB. The IOGLB outfitter licenses identify the areas of operation and specify activities that may be conducted.
- 2) IOGLB requests IDFG analysis because IDFG is the primary State agency responsible for managing the state fish and wildlife resource and acts in an advisory capacity to IOGLB to these activities which are sought after or potentially affect outfitters.
- 3) With respect to the State licensing process, analysis typically occurs when an application for a new outfitter operation is received; an existing outfitter's application is to amend their license by adding or changing their existing operating areas or licensed activities. In these instances, the IOGLB will provide the IDFG with an outfitter operating plan and an operating area map at the time they request IDFG consultation.
- 4) IOGLB should request additional information from IDFG if a substantive change has been made to a specific outfitter's initial operating plan or operating plan or operating area since the analysis occurred.
- 5) IOGLB will issue a license in cases of routine renewal where no significant biological or non-outfitted public use issues exist, or no compliance problem exists. In these instances, the license will be processed without consultation with IDFG.

EXHIBIT 5 – Amendment and Renewal of all Existing Outfitter Licenses to Manage Impacts of Outfitter Operations on Public Hunting and Fishing Opportunity and Experience.

As demand for public hunting and fishing opportunity changes, allocation conflicts may occur for limited fish and wildlife resources and hunting and fishing opportunities. When either IOGLB or IDFG conclude that a resource or hunting/fishing opportunity allocation conflict exists or is likely to develop, IDFG and IOGLB agree to follow processes outlined in Idaho Code Sections 36-104, 36-2110 and IDAPA 25.01.01.026.

The IOGLB and IDFG agree that if changes to current levels of hunting related outfitting operations, are necessary to protect the public interest, they will cooperate and collaborate to make those adjustments. Where changes to existing use or allocation are deemed necessary and appropriate, all user groups should be reduced proportionately.

EXHIBIT 6 – Big Game Tag Allocation

All allocation decisions will be based on Idaho Code sections 36-408 (4) and 36-2107 (j), and IDAPA 13.01.04.505, 13.01.04.506 and 25.01.01.057.

Recognize the Allocation manual developed by IOGLB and assist the IOGLB with training IDFG staff.

Requests for outfitter historical use for calculation of outfitter allocation big game tags will be initiated by the Commission or IDFG Director and come from the Commission or IDFG Director as a formal request of the Board.

Integrate outfitter tag allocation into IDFG's automated licensing/tag system will occur when system development permits.

EXHIBIT 7 – Activity Planning

Some licensed outfitting for upland game (including pheasants, quail, all grouse species except forest grouse, chukar, gray partridge, turkey) and waterfowl occurred historically, and has been 'grandfathered' into individual licenses. Currently licensed outfitting for waterfowl and upland game (including turkeys) is limited. IOGLB and IDFG recognize the need to develop a process to identify, address, and resolve issues related to requests for expanded licensed outfitting opportunities for upland game and waterfowl hunting prior to issuing additional licenses. Additionally, IOGLB and IDFG recognize the need to develop a process to identify, address, and resolve issues related to fishing particularly in area where there is high demand.

EXHIBIT 8 – Database/Geographic Information Systems (GIS)

A separate agreement is being developed through the Idaho Recreation Initiative and made part of this MOU.

EXHIBIT 9 – Education and Enforcement

Whereas representatives from IOGLB and IDFG met on Jan 9, 2006 to brainstorm the following with the intent that it be incorporated to memorialize cooperative Enforcement efforts between IOGLB and IDFG.

Whereas the IOGLB and IDFG recognize that it is preferable that they jointly develop information or programs to keep outfitters, guides and the public informed of rules and regulations pertaining to the outfitter industry and outfitter involvement in fish and wildlife issues.

Whereas the IOGLB and IDFG recognize that strengthening enforcement of and compliance with IOGLB rules and regulations is in the best interest of the public at large and the outfitter industry.

Therefore; it is the intent of the IOGLB and IDFG to strengthen coordination and cooperation between the agencies, enhance professional development of personnel, increase public understanding, awareness and support for the programs administered by each agency. The following are some of the ways this can be done:

The IOGLB Education / Enforcement Supervisor will provide electronic copies of IOGLB Enforcement staff roster to IDFG's Chief of Enforcement and Regional Conservation Officers annually or when changes are made. IDFG's Chief of Enforcement will provide electronic copies of IDFG Enforcement staff roster to IOGLB Education / Enforcement Supervisor annually. IOGLB staff is encouraged to meet informally with IDFG staff at the regional level.

IDFG Regions hold regional winter / spring meetings. Regional Conservation Officers will invite IOGLB enforcement staff to relative portions of these meetings.

IDFG will invite the IOGLB Education / Enforcement Supervisor to the IDFG's enforcement training meetings when they occur bi-annually with an opportunity for IOGLB Education / Enforcement Supervisor to give presentations on matters of importance to both agencies.

Both IOGLB and IDFG will share investigative information in a timely and appropriate manner. Ongoing investigations are sensitive and both agencies strictly adhere to the "Need to Know" policy, to maintain case integrity and officer safety.

IOGLB will consider providing IDFG enforcement front money in order to cover some or all of the operational cost of a covert trip to investigate or prosecute an individual(s) providing unlicensed outfitted and guided activities. In this case, the IDFG Enforcement Chief and IOGLB Education / Enforcement Supervisor would provide an operations plan to the IOGLB Director for approval. Similarly, IOGLB will consider reimbursement of the operational cost of covert trips leading to the prosecution of an individual(s) providing unlicensed outfitted and guided activities.

The principal contacts for this instrument are:

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APPROVED:

IDAHO DEPARTMENT FISH AND GAME

Chairman of the Commission

Date

Director

Date

IDAHO OUTFITTERS AND GUIDES LICENSING IOGLB

Chairman of the IOGLB

Date

Director

Date

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